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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,638	09/09/2004	Taiichi Okada	TIP-04-1178	2464
35811	7590	05/23/2006	EXAMINER	
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP 1650 MARKET ST SUITE 4900 PHILADELPHIA, PA 19103			BEFUMO, JENNA LEIGH	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/501,638	Applicant(s) OKADA, TAIICHI	
	Examiner Jenna-Leigh Befumo	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Amendment submitted on March 15, 2006, has been entered. Claims 3, and 6 – 10 have been cancelled. Claims 1 and 4 have been amended and claim 11 has been added.

Therefore, the pending claims are 1, 2, 4, 5, and 11.

2. The rejections to claim 3 is withdrawn since the claim has been cancelled.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 4 is indefinite. Claim 4 was amended to include a fifth limitation. However, the claim states that the coated airbag fabric must satisfy conditions 1 to 4. Thus, it is unclear if limitation five is required in the coated fabric or not. For purposes of examination the claim does not require the fifth limitation.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 2, 4, and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-252740 A (English Translation) in view of Veiga (5,989,660) for the reasons of record.

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8. Claims 1, 2, 4, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-252740 A in view of Li et al. (5,897,929).

The features of JP 07-252740 A have been set forth in the previous Office Action. JP 07-252740 A discloses a woven fabric made from yarns comprising filaments having a flattened cross-section. JP 07-252740 A also suggests that the woven fabric can be used both as a coated and non-coated airbag fabric. However, JP 07-252740 A fails to disclose that amount of coating applied to the fabric. Li et al. is drawn to airbag fabrics comprising coated woven fabric. Li et al. discloses it is desired to have airbags fabrics which have low permeability while using low coating add-on weights (column 1, line 40 – column 2, line 10). Li et al. discloses that the coating is desirable to permit rapid and complete inflation of the cushion during a collision, and prolonged inflation is required (column 2, lines 21 – 29). Li et al. discloses that the polyamide film can be applied to a woven airbag fabric is an amount of about 0.6 oz/yd² or less, or 20 g/m² or less (column 2, lines 5 – 10). Therefore, it would have been obvious to one having ordinary skill in the art to add the coating taught by Li et al. in an amount of 0.6 oz/yd² or less, to the woven airbag fabric taught by JP 07-252740 A since JP 25470 A discloses that the woven fabric can be used in coated airbags and Li et al. discloses that coating are desirable in situations which require quick inflation as well as prolonged inflation. Thus, claims 1, 2, 4, 5, and 11 are rejected.

Response to Arguments

9. Applicant's arguments filed March 15, 2006 have been fully considered but they are not persuasive. The applicant argues that the prior art does not teach the claimed invention because JP 07-252740 A does not teach or suggest the *concrete relationship* between HI and details of the flattened cross-section yarn (response, page 7). Additionally, the applicant argues that JP 07-

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252740 A fails to *appreciate* that a high HI produces a thin and flexible fabric with a flattened surface (response, page 7).

As set forth in the previous Office Action, JP 07-252740 A explicitly teaches that the filaments should be placed in the woven fabric so that the major axis of the filaments are in parallel with textile's surface (paragraph 18). JP 07-252740 A explicitly teaches that this configuration reduces gaps in the fabric's surface and reduces permeability (paragraph 18). Further, by using the flattened yarns, JP 07-252740 A teaches that the airbag fabric has low permeability, outstanding flexibility, and reduced weight. And even though a polymeric coating is applied to the woven fabric, the coated fabric will still have improved flexibility and reduced weight, as compared to other coated airbag fabrics. Further, the properties of fabric thickness, flexibility, and surface smoothness are all a direct result of the filament, yarn, and weave structure. In this case, JP 07-252740 A teaches the claimed shape and weave structure, and explicitly provides a suggestion to have the major axis of the filaments run substantially parallel to fabric's surface. Thus, the improved properties would be inherent to the prior art.

Additionally, it is held that as long as there is evidence of record establishing inherency, failure of those skilled in the art to contemporaneously recognize an inherent property, function or ingredient of a prior art reference does not preclude a finding of anticipation. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1349, 51 USPQ2d 1943, 1948 (Fed. Cir. 1999). Therefore, since the properties the applicant argues are not appreciated by JP 07-252740 A are a result of the flattened fibers being woven so that the major axis of the fiber is substantially parallel to the fabric's surface, the prior art only needs to teach the structure that produces the properties and does not need to teach the properties claimed by the applicant. And as set forth in the rejection,

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this structure is taught or would be obvious based on the teachings of JP 07-252740 A. Thus, the fact that the applicant recognized inherent properties not disclosed in the prior art is not sufficient to the present rejection. Additionally, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Thus, the rejection is maintained.

Further, the applicant argues that JP 07-252740 A teaches a fabric with high entanglements which would lower the HI value of the yarns (response, page 7). However, the applicant's arguments are not commensurate in scope, since the applicant does not claim a specific entanglement value. In fact, the applicant's own invention can include some entanglements in the range of 3 to 20/m (specification, page 24). Therefore, a yarn having some entanglements would still have the claimed HI values, it is only when the entanglements get too high, that the HI values will be decreased outside of the applicant's claimed range.

Additionally, JP 07-252740 A discloses that entanglements *can* be applied to the yarn, and the entanglement can be made *high* by altering pressure of the air applied to the yarn (paragraph 36). However, even though JP 07-252740 A states that entanglements can be applied, they are not required. Further, JP 07-252740 A does not teach a specific number of entanglements are required. Thus, the number of entanglements would need to be interpreted based on the patent as a whole. And one of ordinary skill in the art would understand that the improved properties are a result of using flat filaments which run substantially in parallel with the fabric's surface. Thus, if entanglements were used, one of skill in the would optimize the number of entanglements so that the low permeability, outstanding flexibility and reduced

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weight properties, provided by using flat yarns running mostly parallel to the surface of the fabric, are not destroyed by the entanglements. Thus, the rejection is maintained.

The applicant also argues that JP 07-252740 A does not sufficiently teach applying a coating to the fabric (response, page 8). While JP 07-252740 A did teach that the uncoated fabric is the preferred embodiment, JP 07-252740 A also discloses that the fabric can be coated. Furthermore, the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed. *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). Therefore, JP 07-252740 A provides motivation to add a coating. The teaching with respect to the amount of coating added to the fabric can be found in the related prior art drawn to coated airbags. Since the rejection is not based on JP 07-252740 A alone, the entire teaching of the coating and coating weight does not need to be found in JP 07-252740 A. Thus, Veiga or Li et al. are relied on to teach details regarding the coating applied to an airbag fabric. Therefore, the rejection is maintained.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jenna-Leigh Befumo
May 15, 2006